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EUR/SCE (FOOKS,RIEHL), EB/IFD/OIA (ROSELI)
ZAGREB FOR THOMAS KELSEY

E.O. 12958: N/A
TAGS: [EINV](#) [CASC](#) [KIDE](#) [OPIC](#) [PGOV](#) [BK](#)
SUBJECT: BOSNIA INPUT TO 2006 REPORT ON INVESTMENT DISPUTES
AND EXPROPRIATION CLAIMS

REF: STATE 60294

BOSNIA AND HERZEGOVINA

The United States government is aware of one (1) claim of U.S. persons that may be outstanding against the Government of Republika Srpska (GRS), a sub-state of the State of Bosnia and Herzegovina.

1.

a. Claimant A
b. 2001
c. Claimant A submitted a bid in 2000 for four wood-processing companies in a privatization tender by the GRS. The tender required all bids to include a deposit fee as a condition of tender, but none of the bidders submitted the required fee. Despite this failure by the bidders, the GRS unsealed the bids. Claimant A contends that unsealing the bids constituted acceptance under the rules of the tender, and that because it submitted the highest bid, it won the tender. The GRS disagreed, and sought to conduct a new tender looking for bids that met the deposit requirement.

Claimant A obtained a GRS court injunction in 2001 against the GRS Directorate for Privatization (DfP) prohibiting a second tender. Claimant A also sought a court order requiring the GRS DfP to respect the results of the original tender. In July 2001, the then-GRS Prime Minister sent Claimant A a letter offering to declare Claimant A winner of the bid in exchange for Claimant A's dismissal of all pending court actions. While Claimant A agreed in principle to this idea, it never dropped its litigation, thereby failing to meet the GRS government's demands. In October 2005 Claimant A lost its court case, but is attempting to appeal. Claimant A has evaluated the current net value of the companies as negative, but estimates that if it were allowed to assume ownership and implement its investment plans, the value of the companies could rise to over \$10 million.

Claimant A formally requested U.S. Government advocacy on its behalf in January 2004, although the request did not meet USG standards for tender advocacy. Embassy and Department staff nevertheless have met on many occasions with different GRS Prime Ministers as well as BiH Prime Minister Terzic to encourage them to resolve the status of the companies. A one-year management contract for one of the four plants that Claimant A signed in December 2004 has expired and has not been extended due to disagreements between Claimant A and GRS over each side's compliance with the contract terms. Claimant A is now also pursuing assets in the RS wood-processing sector through the bankruptcy process.

List of Claimants:

Claimant A: Certified Balkan Beech, Inc. (d/b/a
BalkanAmerica)
U.S. Citizen
No Privacy Act Waiver
MCELHANEY